

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ELGIN, JOLIET, AND EASTERN RAILWAY COMPANY,

Petitioner,

vs.

HANOVER TOWNSHIP; CITY OF ELGIN; VILLAGE OF
BARTLETT; AND STATE OF ILLINOIS, DEPARTMENT OF
TRANSPORTATION.

T05-0012

Respondents.

Petition for an Order of the Illinois Commerce Commission,
regarding improving public safety by upgrading the railroad
warning devices at the Spaulding Road grade crossing of the
Elgin, Joliet, and Eastern Railway Company's tracks located in
Hanover Township, near the City of Elgin, and Village of
Bartlett, Cook County, Illinois, designated as crossing
AAR/DOT 260 530F8, Milepost 37.57.

ORDER

By Order of the Commission:

On August 11, 2004, the Staff of the Illinois Commerce Commission ("the Commission") sent Stipulated Agreement 1107 to the Elgin, Joliet & Eastern Railway Company ("Railroad"), Hanover Township ("Township"); City of Elgin ("Elgin"); Village of Bartlett ("Bartlett"); and State of Illinois, Department of Transportation ("DOT") according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law. The Stipulated Agreement, which is attached to this Order, provided for making safety improvements at the Spaulding Road highway-rail grade crossing of the Railroad's tracks located adjacent to Bartlett and Elgin in Hanover Township, Cook County, Illinois, designated as crossing AAR/DOT 260 530F, Milepost 37.57. Although Staff determined that Spaulding Road at the crossing is under the jurisdiction of the Township and not Elgin or Bartlett, the Stipulated Agreement was also sent to those two municipalities, due to their close proximity to the crossing.

By November 17, 2004, Commission Staff and all of the parties in this petition except Elgin had executed the Stipulated Agreement. Because Elgin did not respond to requests to execute the Stipulated Agreement, on March 1, 2005, the Petitioner Railroad filed a verified petition initiating this proceeding.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, this matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois, on March 25, 2005. Thomas Hunter, Engineer—Signals, Communications and Electrical, appeared on behalf of the Railroad, and Ray Baker, the Railroad's chief engineer, testified on its behalf. Brian Vercruysse, a rail safety specialist in the Commission's Transportation Bureau, appeared on behalf of Commission Staff. Elgin did not enter an appearance or participate in this proceeding.

The petition was uncontested. At the conclusion of the hearing on March 25, 2005, the record was marked "Heard and Taken."

Mr. Baker testified that the Spaulding Road grade crossing warning devices currently consist of cross buck signs. The Stipulated Agreement proposes that the warning devices be upgraded to new automatic flashing light signals and gates, controlled by constant warning time circuitry. Under the terms of the Agreement, the Grade Crossing Protection Fund would be responsible for 85 percent of the costs, and the Petitioner Railroad would be responsible for the remaining 15 percent of the costs, as well as future maintenance. Since the Agreement was sent to the parties, the cost estimate for the project has been lowered to \$189,026, reflecting a reduction in labor and fringe additive costs.

The Commission, having reviewed the entire record, finds that:

- (1) Petitioner Elgin, Joliet & Eastern Railway Company is engaged in the transportation of persons and/or property by rail in the State of Illinois and as such, is a rail carrier as defined by the Illinois Commercial Transportation Law, as amended;
- (2) Respondents Village of Bartlett and City of Elgin are municipal corporations in Cook County, Illinois;
- (3) Respondents Hanover Township in Cook County, Illinois, and Department of Transportation exist by virtue of the law of the State of Illinois;
- (4) the Commission has jurisdiction over the parties and the subject-matter of this proceeding;
- (5) The recitals of fact and conclusions of law contained in the prefatory portion of this order are supported by evidence in the record and are hereby adopted as findings of fact;
- (6) The City of Elgin borders, but has no jurisdiction over, the Spaulding Road highway-rail grade crossing of the Petitioner Railroad's tracks, and, therefore, is not required to be a party in this proceeding;

- (7) The cost to install automatic flashing light signals and gates, controlled by constant warning time circuitry, is now estimated to be \$189,026. The Grade Crossing Protection Fund should pay 85 percent of the installation cost, not to exceed \$160,672. The Elgin, Joliet & Eastern Railway Company should pay all remaining installation costs, not to exceed \$28,354, as well as future operating and maintenance costs;

Division of Costs for Proposed Improvements

Work Item	Total Cost	GCPF	COMPANY	TOWNSHIP/ELGIN BARTLETT
AFLS/Gates/ Circuitry	\$189,026	(85%) \$160,672 ¹	(15%) \$28,354 ²	(0%) \$0

Notes:

1. Total Grade Crossing Protection Fund ("GCPF") assistance not to exceed \$160,672; any installation costs above the estimated amount of \$189,026 will be divided between the GCPF and the Railroad in the same percentages noted above, upon submittal and review of evidence to support the additional cost and approval by the Commission.
 2. The Railroad is responsible for all future operating and maintenance costs for the new automatic warning devices.
- (8) The Elgin, Joliet & Eastern Railway Company immediately shall proceed to perform the work this Order requires and should complete these improvements within twelve months of the date of this Order;
- (9) Any person making a request for extension of time up to thirty days to complete a project ordered by the Commission must file a request with the Director of Processing no later than fourteen days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request;
- (10) Any person requesting an extension of time that exceeds thirty days must file a petition for supplemental order with the Director of Processing no later than twenty-one days in advance of the scheduled deadline. The Commission will decide petitions for supplemental orders;
- (11) Requests for extensions of time and petitions for supplemental orders shall include the reason the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a request for extension of time or a petition for supplemental order, the party shall notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered deadline;

- (12) The Commission or its Administrative Law Judge reserves the right to deny petitions for supplemental orders and requests for extension of time, if the reason supporting the request is insufficient or where it appears the party has not made a good-faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect;
- (13) 625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects all parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions;
- (14) 625 ILCS 5/18c-7401 of the Illinois Commercial Transportation Law (Safety Requirements for Track, Facilities, and Equipment), requires installation of temporary stop signs whenever the Commission authorizes the installation of automatic flashing light signals and gates at public highway-rail grade crossings. The temporary stop signs shall remain in place until the luminous flashing signal or crossing gate devices have been installed. Under this provision, the Elgin, Joliet & Eastern Railway Company is responsible for the cost of the installation and subsequent maintenance of any required temporary stop signs.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Elgin, Joliet & Eastern Railway Company be, and the same is hereby, required and directed to proceed with the installation of new automatic flashing light signals and gates, controlled by constant warning time circuitry at the Spaulding Road grade crossing that complies with Findings (3) through (11).

IT IS FURTHER ORDERED that the Elgin, Joliet & Eastern Railway Company shall furnish a written statement with the Director of Information and Processing of the Commission's Transportation Bureau ("Director of Processing"), confirming the temporary stop signs have been installed at the Spaulding Road grade crossing.

IT IS FURTHER ORDERED that all bills for expenditures authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Fiscal Control Unit of the Illinois Department of Transportation's Bureau of Local Roads and Streets ("DOT"), Illinois Department of Transportation, Central Bureau of Local Roads and Streets, 2300 South Dirksen Parkway, Springfield, Illinois 62674. The DOT shall submit a copy of all bills to the Director of Processing. The final bill for expenditures from each party shall be clearly marked "Final Bill". In addition, authorization for reimbursement from the Grade Crossing Protection Fund for this project shall expire, and the DOT shall de-obligate all remaining Grade Crossing Protection Fund dollars, eighteen months after

the completion date specified in this or any supplemental order for this project issued by the Commission.

IT IS FURTHER ORDERED that Elgin, Joliet, and Eastern Railway Company shall file Form 3 of 92 Illinois Administrative Code 1535 of this Commission showing details of the automatic warning devices required by this Order and shall receive approval of the form by X-Resolution before commencing the work of installation.

IT IS FURTHER ORDERED that the Elgin, Joliet, and Eastern Railway Company shall at six-month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing describing the progress that has been made toward completion of the work herein required. If the project is behind schedule, the report shall include a brief explanation of the reason for the delay. Each progress report shall include the docket numbers and dates of this Order and each supplemental order; the project completion dates established by the orders; type of improvement; and project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for the management of the project.

IT IS FURTHER ORDERED that the Elgin, Joliet, and Eastern Railway Company shall submit a written notice to the Director of Processing of the date the work required of it in this Order has been completed. This notice shall be submitted within five days after the completion date.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Illinois Commercial Transportation Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 17th day of May, 2005

JUDGE	BC
SECTION CHIEF	
ORDERS SUPERVISOR	DWS

Edward C. Husley
Chairman

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

STIPULATED AGREEMENT No. 1107

This Agreement made and entered into, by and between the State of Illinois, acting by and through the Illinois Commerce Commission, hereinafter referred to as the "COMMISSION", the Elgin, Joliet, and Eastern Railway Company, hereinafter referred to as the "COMPANY", Hanover Township Road District, hereinafter referred to as the "TOWNSHIP", the City of Elgin, hereinafter referred to as "ELGIN," the Village of Bartlett, hereinafter referred to as "BARTLETT," and the State of Illinois, Department of Transportation, hereinafter referred to as the "DEPARTMENT".

WITNESSETH:

WHEREAS, it has come to the attention of the COMMISSION through informal correspondence that inquiry should be made into the matter of improving public safety at the Spaulding Road highway-rail grade crossing of the COMPANY'S track located near the City of Elgin and the Village of Bartlett in Hanover Township, Cook County, Illinois, designated as crossing AAR/DOT 260 530F, Milepost 37.57; and

WHEREAS, proper investigation has been made of the circumstances surrounding the aforesaid crossing by a diagnostic team, including a staff member of the COMMISSION'S Transportation Division, Railroad Section; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volumes, and all other pertinent data relating to the crossings has been obtained and shown on Exhibit A, attached to the Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish the proposed improvements upon a determination of the COMMISSION by Order.

NOW, THEREFORE in consideration of the premises and of the mutual covenants and agreements as hereinafter contained the parties pray that the COMMISSION enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law requiring that certain improvements as hereinafter stated be made and that the cost for the proposed improvements be divided among the parties according to law and that in the interest of the statewide traveling public the Grade Crossing Protection Fund of the Motor Fuel Tax Law be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

Section 1 All improvements encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations and Orders and procedures in general.

and gates at public highway-rail grade crossings. The temporary STOP signs shall remain in place until the luminous flashing signal or crossing gate devices have been installed. The rail carrier is responsible for the cost of the installation and subsequent maintenance of any required temporary STOP signs.

Section 7 Special Provisions: The COMPANY shall at six (6) month intervals from the date of the COMMISSION Order until the project has been completed, submit written reports to the Director of Processing and Information, Transportation Division of the COMMISSION stating the status of expenditures of the project and the percentage of completion of the project; if the project is behind schedule the reports must also include a brief explanation of the reason(s) for the delay.

All bills for expenditures authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Fiscal Control Unit of the Illinois Department of Transportation's Bureau of Local Roads and Streets, 2300 S. Dirksen Parkway, Springfield, IL 62764. The DEPARTMENT shall send a copy of all bills to the Director of Processing and Information, Transportation Division of the COMMISSION. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twenty-four (24) months from the date of COMMISSION Order subsequent to this Agreement. The DEPARTMENT shall, at the end of the 24th month from the COMMISSION Order date, de-obligate all residual funds accountable for the cost for this project.

The COMPANY shall at six (6) month intervals from the date of the Order until the project has been completed, submit written reports to the Director of Processing and Information, Transportation Division of the COMMISSION, stating the progress made toward completion of the work herein required. Each progress report shall include the COMMISSION Order Number, the Order Date, the project completion date as noted in the Order, crossing information (Inventory Number and Railroad Milepost), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile number of the employee responsible for management of the project.)

Section 8 This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the COMMISSION shall enter an appropriate order, within 60 days accepting or rejecting such stipulation according to the provisions contained herein.


Illinois Commerce Commission Stipulated Agreement No. 1107 concerning improvements at the Spaulding Road highway-rail grade crossing of the Elgin, Joliet, and Eastern Railway Company's track located near the City of Elgin and the Village of Bartlett in Hanover Township, Cook County, Illinois, designated as crossing AAR/DOT 260 530F, Milepost 37.57.

Executed by the Elgin, Joliet, and Eastern Railway Company, this 18 day of August, 2004.


Elgin, Joliet, and Eastern Railway Company

By: Chief Engineer
(Title)

Attest:



**ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT
CROSSING DATA FORM**

GENERAL INFORMATION: See Location Sketch

RAILROAD	EJE
USDOT#, MILEPOST	260 530F, MP 37.57
STREET, CITY, COUNTY	Spaulding/ Elgin and Bartlett
JURISDICTION (RDWY)	Hanover Township
LOCATION	Metra Yard/Industrial/Residential Further East
STREET SURFACE	22'

CROSSING DATA: See Location Sketch for roadway profile and track centers

TRACK (W-E or N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
1W	Timber	7'	Fair
2	Timber	7'	Fair

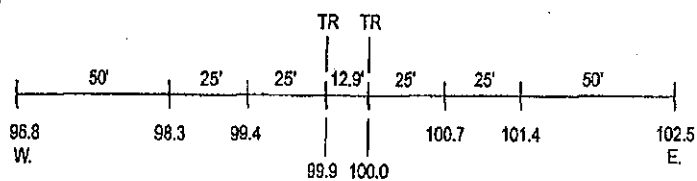
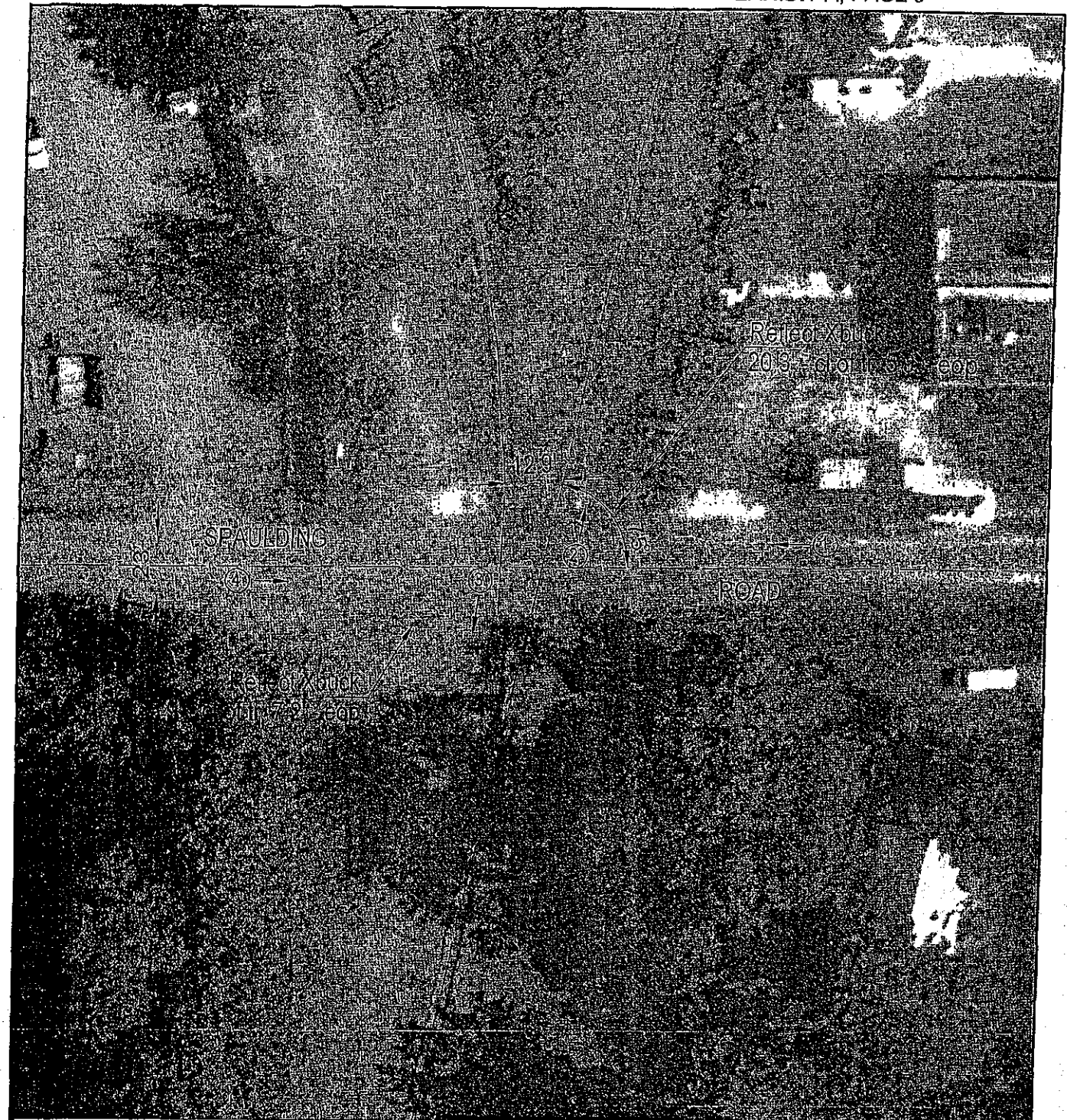
ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	Not Applicable
TRAFFIC CONTROL	N/A
ADT & SPEED	5000 @ 40 MPH (15% Trucks)
TRAFFIC TYPE	Passenger, School Busses, Hazardous Materials
ADVANCE WARNING	No
PAVEMENT MARKING	No

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	20 Per day @ 45 MPH Main Day & Night
PASSENGER TRAFFIC	Not Applicable
WARNING DEVICES	Crossbucks Only

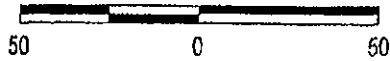
NOTES:



ROAD PROFILE



SCALE IN FEET



③ Photo Location

Crossing #: 260530F
 Location: Cook Co., City of Elgin (I)
 Lat/Long: 42°00'10" / 88°14'08"
 Railroad: EJE
 Street: Spaulding Road
 Railroad Milepost: 37.57
 Crossing Protection: Signs

DETAILED ESTIMATE**Name of Carrier:**

Elgin, Joliet & Eastern Railway Company

Date:

12-Mar-04

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Description. Conditions and Location of Project:

Install A New Complete Constant Warning Time Crossing Protection System With Automatic LED Flashing Lights And Gates At The EJ&E Spaulding Road At Grade Crossing, DOT # 260 530F Spaulding, Cook County, Illinois, EJ&E Western Subdivision. ICC Requested Estimate To Upgrade The Passive At Grade Crossing. Please Note That Curent EJ&E Rates And Additives Are Subject To Change Proir To The Final Agreement.

AAR/DOT#:		Milepost:		Location:		
260 530F		37.57 WSD		Spaulding Road Crossing Spaulding Interlocking		
Description	Unit	# of Units	Unit Cost	Material Cost	Labor	Total
<u>Material:</u>						
US&S Model 95 Gate With LED Lights	Each	2	10,800.00	21,600.00		
HXP-3R2 Crossing Predictor	Each	2	25,500.00	51,000.00		
XLC-Logic Controller	Each	2	1,750.00	3,500.00		
VLG Gate Controller	Each	1	550.00	550.00		
VRD Relay Driver	Each	1	700.00	700.00		
Cragg 20 Amp Rail Charger	Each	2	520.00	1,040.00		
Cragg 40 Amp Rail Charger	Each	1	650.00	650.00		
Batteries	Each	19	270.00	5,130.00		
ScadaNet RTU Remote Crossing Monitoring	Each	1	2,500.00	2,500.00		
Track Cable 2/C #6 AWG Twisted	Ft.	2000	1.25	2,500.00		
Signal Cable 7/C #6 AWG - Gate	Ft.	1000	5.60	5,600.00		
Power Cable 3/C #2 AWG	Ft.	250	5.00	1,250.00		
Other Miscellaneous Material	Lot	1	2,500.00	2,500.00		
Material Subtotal				98,520.00		
Sales Tax % 6.25				6,157.50		
Handling % 5				4,926.00		
<u>Material Total:</u>				109,603.50		109,603.50
<u>LABOR:</u>						
Signalman	MH	800	22.18		17,744.00	
C&E Lineman	MH	100	22.18		2,218.00	
Labor Subtotal					19,962.00	
Add Fringe (%) 87.13					17,392.89	
Engineering and Accounting	lot	1	3,500.00		3,500.00	
Add Fringe (%) 73.54					2,573.90	
<u>Labor Total:</u>					43,428.79	43,428.79

Exhibit B

DETAILED ESTIMATE

Name of Carrier:

Elgin, Joliet & Eastern Railway Company

Date:

12-Mar-04

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(Revised 02/23/05)

Description, Conditions and Location of Project:

Install A New Complete Constant Warning Time Crossing Protection System With Automatic LED Flashing Lights And Gates At The EJ&E Spaulding Road At Grade Crossing, DOT # 260.530F Spaulding, Cook County, Illinois, EJ&E Western Subdivision. ICC Requested Estimate To Upgrade The Passive At Grade Crossing. Please Note That Curent EJ&E Rates And Additives Are Subject To Change Proir To The Final Agreement.

AAR/DOT#:		Milepost:		Location:		
260 530F		37.57 WSD		Spaulding Road Crossing Spaulding Interlocking		

Description	Unit	# of Units	Unit Cost	Material Cost	Labor	Total
<u>Material:</u>						
US&S Model 95 Gate With LED Lights	Each	2	10,800.00	21,600.00		
HXP-3R2 Crossing Predictor	Each	2	25,500.00	51,000.00		
XLC-Logic Controller	Each	2	1,750.00	3,500.00		
VLG Gate Controller	Each	1	550.00	550.00		
VRD Relay Driver	Each	1	700.00	700.00		
Cragg 20 Amp Rail Charger	Each	2	520.00	1,040.00		
Cragg 40 Amp Rail Charger	Each	1	650.00	650.00		
Batteries	Each	19	270.00	5,130.00		
ScadaNet RTU Remote Crossing Monitoring	Each	1	2,500.00	2,500.00		
Track Cable 2/C #6 AWG Twisted	Ft.	2000	1.25	2,500.00		
Signal Cable 7/C #6 AWG - Gate	Ft.	1000	5.60	5,600.00		
Power Cable 3/C #2 AWG	Ft.	250	5.00	1,250.00		
Other Miscellaneous Material	Lot	1	2,500.00	2,500.00		
Material Subtotal				98,520.00		
Sales Tax % 6.25				6,157.50		
Handling % 5				4,926.00		
<u>Material Total:</u>				109,603.50		109,603.50
<u>LABOR:</u>						
Signalman	MH	800	22.18		17,744.00	
C&E Lineman	MH	100	22.18		2,218.00	
Labor Subtotal					19,962.00	
Add Fringe (%) 82.22					16,412.76	
Engineering and Accounting	lot	1	3,500.00		3,500.00	
Add Fringe (%) 69.9					2,446.50	
<u>Labor Total:</u>					42,321.26	42,321.26

Page 2
Spaulding Rd.
3/12/2004
(Revised 02/23/05)

OTHER:

Equipment Cost	Lot	1	21,600.00	21,600.00
(Based on Total Hours)				

Underground Conduit Bore	Lot	1	6,500.00	6,500.00
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<u>Other Total:</u>			<u>28,100.00</u>	
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<u>Total:</u>				<u>28,100.00</u>
				<u>180,024.76</u>

<u>Total Project Expenditure</u>				<u>180,024.76</u>
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<u>Project Contingency (5%)</u>				<u>9,001.24</u>
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<u>Net Project Expenditure</u>				<u>189,025.99</u>
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Figured by: J. Jevlovic
Checked by: T.W. Hunter